Calendar No. 123

98TH CONGRESS, 1st Session } SENATE { REPORT No. 98–75

AMENDING THE DEBT COLLECTION ACT OF 1982 TO ELIMINATE THE REQUIREMENT THAT CONTRACTS FOR COLLECTION SERVICES TO RECOVER INDEBTEDNESS OWED THE UNITED STATES BE EFFECTIVE ONLY TO THE EXTENT AND IN THE AMOUNT PROVIDED IN ADVANCE APPROPRIATION ACTS

MAY 5 (legislative day, MAY 2), 1983.—Ordered to be printed

Mr. PERCY, from the Committee on Governmental Affairs, submitted the following

REPORT

[To accompany S. 376]

The Committee on Governmental Affairs, to which was referred the bill (S. 376) to amend the Debt Collection Act of 1982 to eliminate the requirement that contracts for collection services to recover indebtedness owed the United States be effective only to the extent and in the amount provided in advance appropriation Acts, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill as amended do pass.

I. SUMMARY AND PURPOSE

S. 376 would amend title 31 of the United States Code to allow Federal agencies to contract with private collectors without having an advance appropriation. It is important to note that the fee paid to a private contractor under this bill would not come from the U.S. Treasury or revenues from taxes. Rather, S. 376 will allow the contractor to be paid a fixed percentage of the loans collected. In most cases, this is money that never would have been collected otherwise.

In cases where the contractor is paid a flat fee, an advance appropriation would still be required.

II. BACKGROUND

Prior to enactment of the Debt Collection Act of 1982, the authority for contracting with outside collectors was based on a Justice-GAO opinion. Under the Claims Collection Act of 1966, they have the au-

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thority to issue regulations and opinions with regard to debt collection. Based on this opinion, the Department of Education, 1 of 18 Federal agencies with sizable loan debts, began contracting with collectors. In spite of this opinion, many agencies were barred from using contractors by law, and others were reluctant without specific statutory authority. Thus, section 13 of the Debt Collection Act provided specific authority for all agencies, except the IRS and Social Security Administration, to use collection agencies. It also allowed Federal agencies to use a portion of the proceeds of collection to pay the contractors.

However, the Budget Committee required that the Debt Collection Act include the following language: "Any such contract shall be effective only to such extent and in such amounts as are provided in advance appropriation Acts." This language has resulted in the following problems:

The Department of Education already has contracts with collection agencies for over $500 million in claims. The contract allows for the contractor to keep a percentage of the collections as commission. The Department of Education has no advance appropriation for this commission. In some cases, it is up to 40 percent of the collections.

There is no way to predict how much a collection contractor will collect over a year, or how much will be sent to them for collection. Thus, it is virtually impossible to set the amount in an advance appropriation.

This provision has tied the hands of Federal departments in their efforts to contract with collection agencies. Some of these departments have already contracted, or are in the process of doing so. A significant part of the $2 billion in annual savings from last year's legislation is tied up with the use of private contracting.

S. 376 is designed to correct these problems by allowing Federal agencies to contract with private collectors without the requirement of an advance appropriation. Although the Budget Committee originally opposed this concept, a compromise has been worked out. S. 376 will require advance appropriations for collection contracts in which a flat fee is charged by the contractor. As example of a flat fee contract would be when a collection agency agrees to collect $10 million in defaulted loans for $1 million in fees, regardless of how much is actually collected. An advance appropriation would not be required, however, when contracts are made on the basis of a contingency fee—for example, when the contractor agrees to collect $10 million in defaulted loans for a fee of 20 percent of what is collected.

S. 376, as ordered reported from the Governmental Affairs Committee, contains a sentence which was included to allow contracts in the process of being let in fiscal year 1983 go ahead without the requirement of an advance appropriation. This provision was included to allow the Department of Agriculture to proceed with a contract about to be let with a collection firm, as well as other agencies with similar contracts. The provision expires October 1, 1983.

However, the Budget Committee has indicated an objection to this particular provision, and it will be deleted when S. 376 reaches the Senate floor.

III. Committee Vote

In compliance with paragraph 7(c) of rule XXVI of the Standing Rules of the Senate, the rollcall vote taken during committee consideration of this legislation is as follows:

Final passage: Ordered reported, 10 yeas, 0 nays.

YEAS (10)	NAYS (0)
Percy	
Stevens	
Cohen	
Durenberger	
Rudman	
Cochran	
Eagleton	
Sasser	
Levin	
Roth	

IV. Evaluation of Regulatory Impact

Paragraph 11(b)(1) of rule XXVI of the Standing Rules of the Senate requires each report accompanying a bill to evaluate the regulatory impact which would be incurred in carrying out the bill.

S. 376 is intended to increase the efficiency and effectiveness of Federal debt collection efforts by allowing Federal agencies greater flexibility in contracting with private collectors. The bill does not impose additional forms of regulation on collection agencies. Although Federal agencies will need to establish procedures in order to implement the options provided in S. 376, any costs associated will be more than offset by the increased collections generated.

V. Estimated Cost of Legislation

U.S. Congress,
Congressional Budget Office,
Washington, D.C., April 21, 1983.

Hon. William V. Roth, Jr.,
Chairman, Committee on Governmental Affairs,
U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Pursuant to section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed S. 376, a bill to amend the Debt Collection Act of 1982 to eliminate the requirement that contracts for collection services to recover indebtedness owed the United States be effective only to the extent and in the amount provided in advance appropriation acts, as ordered reported by the Senate Committee on Governmental Affairs, March 17, 1983.

Based on this review, it is expected that no cost to Federal, State, or local governments will be incurred as a result of enactment of this bill.

Should the committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

ALICE M. RIVLIN,
Director.

VI. CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic, and existing law in which no change is proposed is printed in roman):

UNITED STATES CODE

TITLE 31—MONEY AND FINANCE

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Chapter 37

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§ 3718. Contracts for collection services

(a) Under conditions the head of an executive or legislative agency considers appropriate, the head of the agency may make a contract with a person for collection services to recover indebtedness owed the United States Government. The contract shall provide that—

(1) the head of the agency retains the authority to resolve a dispute, compromise a claim, end collection action, and refer a matter to the Attorney General to bring a civil action; and

(2) the person is subject to—

(A) section 552a of title 5, to the extent provided in section 552a(m); and

(B) laws and regulations of the United States Government and State governments related to debt collection practices.

(b) Notwithstanding section 3302(b) of this title, a contract under subsection (a) of this section may provide that a fee a person charges to recover indebtedness owed the United States Government is payable from the amount recovered.

(c) A contract under subsection (a) of this section is effective only to the extent and in the amount provided in an appropriation law. *This limitation does not apply in the case of a contract that authorizes a person to collect a fee as provided in subsection (b) of this section.*

(d) This section does not apply to the collection of debts under the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.).

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